

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5910 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AMARSING U CHAVADA

Versus

DGP & IGP

Appearance:

MR SB NANAVATI for Petitioner

None present for Respondents No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/02/98

ORAL JUDGEMENT

1. The petitioner, a Police Constable of the Police Department of the State of Gujarat, filed this special civil application and challenges the order of the respondents, annexure 'A' dated 1-11-1986 under which he was censured and reverted or repatriated to the post of Constable in Executive Force.

2. The facts of the case are that the petitioner was

appointed as Armed Police Constable on 1-12-1976 in the Police Department in Ahmedabad city. He thereafter learned the motor driving and obtained driving licence from R.T.O. Ahmedabad. Thereafter the petitioner was transferred to Motor Transport Section of the Police Department from Executive Force and he was posted as Motor Cycle Rider in Police Head Quarters from 1-1-1983. The petitioner was getting special allowance (special pay) of Rs.28/- p.m. according to the Government Resolution for discharging his duties as Motor Cycle Rider. As a result of his transfer to the Executive Force, the petitioner has been deprived of his special allowance. Hence, this special civil application before this Court.

3. The learned counsel for the petitioner raised manifold contentions in this special civil application but as this special civil application deserves acceptance only on the ground that the order impugned has been passed by the respondents without giving any notice or opportunity of making representations to the petitioner, the other points are not required to be dealt with.

4. Rule-3(1)(i) of the Bombay Police (Punishments and Appeals) Rules, 1956, provides that without prejudice to the provisions of any law for the time being in force, the punishment of reduction in rank, grade or pay or removal from any office of distinction or withdrawal of any special emoluments, may be imposed upon the Police Officer.

5. Rule-4 of the said rules provides that no punishment specified in clauses (a-1), (a-2), (i)-(i-a), (ii) and (iii) of sub-rule (1) of rule 3 shall be imposed on any Police Officer unless a departmental inquiry into his conduct is held and a note of inquiry with the reasons for passing an order imposing the said punishment is made in writing under his signature.

6. In this case, reply to the special civil application has not been filed by the respondents, and as such, the averments made therein stand uncontroverted. I do not find anything on the record that before passing of the impugned order the petitioner has been given any notice or opportunity of hearing. The impugned order gives out that the same has been passed without holding any inquiry and on this short ground alone, this special civil application deserves acceptance.

7. In the result, this special civil application succeeds and the same is allowed, and the order dated

1-11-1986, annexure 'A' to this petition is quashed and set aside. The petitioner shall be entitled for all the consequential benefits legally available to him on the quashing and setting aside of the order annexure 'A' dated 1-11-1986. Rule is made absolute in the aforesaid terms with no order as to costs.

zgs/-